

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BRENDA HIGGINS,)	
)	
Plaintiff,)	
)	
vs.)	
)	CASE NO. 1:22-cv-1587
DOLGENCORP, LLC, d/b/a DOLLAR)	
GENERAL)	
)	
Defendant.)	
)	
)	

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES AND CLERK OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Dolgencorp, LLC, by counsel, hereby files this Notice of Removal to remove the above-entitled civil action from the Circuit Court of Bartholomew County, Indiana, to this Court based upon the following supporting grounds, appearing solely for the purpose of removal, and for no other purpose, and preserving all other defenses available to it, states as follows:

1. Copies of all process and pleadings filed and/or received by Dolgencorp, LLC and the docket sheet for the Bartholomew County Circuit Court action, as of August 10, 2022, are attached hereto and incorporated herein as *EXHIBIT 1*.
2. Dolgencorp, LLC is a defendant in a Complaint filed in the Bartholomew County Circuit Court, entitled *Brenda Higgins v. Dolgencorp, LLC, d/b/a Dollar General*,

under Case No. 03C01-2207-CT-003256, a copy of which is attached hereto as *EXHIBIT 2*.

3. Plaintiff, Brenda Higgins (“Plaintiff”), filed her Complaint on July 5, 2022. Plaintiff alleges damages arising from an incident on March 8, 2022, at a Dollar General store in Columbus, Indiana, at which time Plaintiff claims that she “slipped and fell due to liquid on the floor,” causing her to suffer serious injuries. Plaintiff further claims that Dolgencorp, LLC “negligently failed to provide a safe stairwell, including, but not limited to, failing to provide proper lighting and handrail accommodations.” Plaintiff also contends that Dolgencorp, LLC was negligent by failing to use reasonable care in the inspection and maintenance of its premises.
4. A summons and copy of the Complaint were sent by certified mail to Dolgencorp, LLC on July 11, 2022, which Dolgencorp, LLC received on July 14, 2022. (*See* Certified Mail Tracking, appended as *EXHIBIT 3*). Thus, this notice of removal is being timely filed within thirty (30) days “after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading.” 28 U.S.C. §1446(b).
5. Plaintiff’s Complaint provides no information as to Plaintiff’s domicile. However, on August 8, 2022, Counsel for Plaintiff confirmed that **Plaintiff is a citizen of Indiana**. (*See* Email Correspondence of 8/8/22, appended as *EXHIBIT 4*)
6. Defendant Dolgencorp, LLC is a foreign limited liability company. The sole member of Dolgencorp, LLC is Dollar General Corporation. Dollar General Corporation is incorporated in Tennessee and has its principal place of business in Tennessee. Therefore, **Dolgencorp, LLC is a citizen of Tennessee**.

7. “A case falls within the federal district court’s ‘original’ diversity ‘jurisdiction’ only if diversity of citizenship among parties is complete, *i.e.*, only if there is no plaintiff and no defendant who are citizens of the same State.” *Wis. Dep’t of Corrections v. Schacht*, 524 U.S. 381, 388 (1998). Because Plaintiff and Defendant are citizens of different states, there is complete diversity of citizenship between the parties in accordance with 28 U.S.C. § 1332(a).
8. Plaintiff’s Complaint provides no information regarding the value of her claims. However, Plaintiff alleges that she sustained “serious” and “permanent injuries” and that she has “incurred medical expenses and other special expenses, and will incur future medical expenses, lost wages and other special expenses” as a result of her fall. On July 27, 2022, Plaintiff’s Counsel advised that Plaintiff receives treatment through the Veterans Administration and that she cannot stipulate that her damages do not exceed \$75,000. Therefore, **the alleged damages in this case exceed \$75,000.**
9. “[T]he proponent of [federal] jurisdiction . . . has the burden of showing by a preponderance of the evidence facts that suggest the amount-in-controversy requirement is met. That is easier said than done when the plaintiff, the master of the complaint . . . provides little information about the value of her claims. In such a case, a good-faith estimate of the stakes is acceptable if it is plausible and supported by a preponderance of the evidence. Once the defendant in a removal case has established the requisite amount in controversy, the plaintiff can defeat [federal] jurisdiction only if ‘it appears to a legal certainty that the claim is really for less than the jurisdictional amount.’” *Oshana v. Coca-Cola Co.*, 472 F.3d 506,

511 (7th Cir. 2006) (internal citations omitted). Thus, the amount in controversy exceeds \$75,000, exclusive of interests and costs required under 28 U.S.C. § 1332(a).

10. Accordingly, the requirements for complete diversity and amount in controversy are satisfied, and this court has original jurisdiction pursuant to 28 U.S.C. § 1332(a). This case is subject to removal in accordance with the provisions of 28 U.S.C. § 1441(b) in that it is a civil action between citizens domiciled in different states and the preponderance of the evidence shows that the amount in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs.

11. Because the state court action was filed in Bartholomew County, Indiana, the District Court for the Southern District of Indiana, Indianapolis Division, is the proper venue. *See* 28 U.S.C. §§ 1441(a) and 94(b)(1).

12. On August 10, 2022, a Notice of Filing of this Notice of Removal will be filed with the Bartholomew County Circuit Court via that court's electronic filing system and will be served upon all counsel in this action. A copy of that Notice is attached hereto as *EXHIBIT 5*.

WHEREFORE, the Defendant, Dolgencorp, LLC, by counsel, respectfully gives notice that this civil action is removed to this Court from the Bartholomew County Circuit Court.

Respectfully submitted,

/s/ Katherine M. Haire
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Attorney for Defendant DOLGENCORP, LLC

CERTIFICATE OF SERVICE

I certify that on this day, August 10, 2022, the foregoing document was filed electronically using the Court's CM/ECF system, which sends electronic notification to all *registered* parties.

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/s/ Katherine M. Haire

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